IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3151 OF 2004

Raj Prasanna Kondur,)
aged about 31 years,)
Occupation - Business, residing at)
Park View, Ground Floor, 129,)
Carter Road, Bandra (W),)
Mumbai - 400 050.). Petitioner
(Org.Respondent)

Versus

1. Mr.Arif Taher Khan,)
aged 71 years,)
Occupation - Business,)

2. Mrs.Ruquaiya Begum,)
aged 92 years, Occupation -)
Housewife, both of them)
residing at 1st Floor,)
Park View, 129, Mumbai 400 050.)

3. State of Maharashtra,)
through Government Pleader,)
High Court, Bombay.)..Respondents
(Org.Applicants)

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Shri H.M.Jagtiani i/b Haresh Jagtiani & Associates for the petitioner.

Shri R.A.Thorat for the respondents.

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CORAM : R.M.S.KHANDEPARKAR, J

DATED : 23RD DECEMBER, 2004.

JUDGMENT:

1. Heard the learned advocates for the petitioner and the respondents. Perused the records. Rule. By consent, the rule is made returnable forthwith.

2. The petitioner challenges the order passed by the Additional Commissioner, Konkan Division, on 21st March, 2004 rejecting the revision application filed by the petitioner against the order dated 12th November, 2003 passed by the competent authority at Mumbai rejecting the Application No.19 of 2003 which was filed by the petitioner for setting aside the ex parte order of eviction of the petitioner from the suit premises.

3. The respondent Nos.1 and 2 are the owners of the suit premises situated at Park View, 129 Carter Road, Bandra (West), Mumbai. The suit premises were permitted to be occupied and used by the petitioner for residential purposes since 1st April, 2001 and the agreement in that regard was executed by the parties on 3rd April, 2001. The said agreement was for a period of 11 months with an option to the petitioner to extend the said agreement for three further periods

of 11 months each, subject to the license fee being increased by the petitioner after the second period of 11 months, and further that the petitioner as well as the respondents/owners were to have the right to terminate the agreement by giving a three months' notice to each other. The said agreement was lodged for registration by the respondents on 31st December, 2002. A notice dated 13th January, 2003 came to be served upon the petitioner by the respondents asking him to vacate the premises on 1st February, 2003 or within three months of the notice as the respondents did not wish to renew the agreement any further. Since the petitioner did not vacate the premises, the respondents filed an application before the competent authority under Section 24 of the Maharashtra Rent Control Act, 1999, hereinafter called as "the said Act", for eviction of the petitioner from the suit premises and the summons came to be issued to the petitioner in respect of the said proceedings in accordance with the provisions of Section 43 of the said Act as well as by the registered post. However, the summons sent by the registered post was not collected by the petitioner though intimation in that regard by the postman was stated to have been given at the suit premises. The copy of the summons, however, was served on the servant of the petitioner on 5th

May, 2003. As the petitioner failed to appear and to seek leave to defend in the matter within 30 days from the date of the service of the summons, the competent authority passed the order dated 15th July, 2003 for eviction of the petitioner from the suit premises. On 13th October, 2003, the petitioner filed an application before the competent authority for setting aside the said ex parte order. After hearing the parties, the competent authority dismissed the said application by its order dated 12th November, 2003. The petitioner approached this Court with the Writ Petition No.8767 of 2003 which was subsequently withdrawn by the petitioner to approach the revisional authority under the said Act. The petitioner thereupon filed the revision application before the revisional authority under the said Act which, after hearing the parties, was dismissed by the impugned order dated 21st March, 2004. Hence the present petition.

4. While challenging the impugned order, the learned advocate for the petitioner has submitted that the authorities below ought to have considered that the entire proceedings before the authority were ab initio bad in law in the absence of valid and lawful agreement of leave and license between the parties,

and therefore, the ex parte order passed therein was also bad in law and failure on the part of the petitioner to seek leave to defend the proceedings could not have validated the illegal proceeding and the order passed therein by the competent authority, and therefore, the authorities below ought to have allowed the application filed by the petitioner. Drawing attention to Section 24 read with Section 55 of the said Act and further to the fact that the agreement in question was sought to be registered after 20 months of the execution of the agreement, it was contended that there was no valid registration of the agreement in terms of the provisions of Registration Act, 1908, and consequently, the agreement in question is not admissible in evidence, and therefore, no application under Section 24 of the said Act based on such invalid and inadmissible agreement could have been entertained by the competent authority, and therefore, the entire proceedings ought to have been dismissed being devoid of cause of action. It was also sought to be contended that there was no proper service of the summons of the proceedings as there was no compliance of the provisions of Section 43 of the said Act and being so, no fault could have been found with the petitioner approaching the competent authority on 13th October,

2003 for setting aside the ex parte order, subsequent to his arrival in the town after his business tour. Referring to Section 55 of the said Act, it was sought to be argued that in the absence of registration of the agreement of leave and license, the contention of the licensee about the terms and conditions subject to which the premises were allowed to be occupied would prevail in any proceeding under Section 24 of the said Act, and therefore the authority below could not have given any credence to the contention of the respondents in relation to the terms and conditions of the leave and license agreement, once it was apparent that the agreement was not registered in accordance with the provisions of law, and therefore inadmissible and hence could not have been looked into. Reliance is sought to be placed in the decisions of the Punjab High Court in the matter of **Ram Singh Sant Ram v. Jasmer Singh Hardit Singh & Anr.,** reported in AIR 1963 Punjab 100, of the Patna High Court in **Smt.Dil Kuer & Ors. v. Hari Chandar Prasad & Ors.,** reported in AIR 1976 Patna 193, as also of the Apex Court in the matter of **Achutananda Baidya v. Prafullya Kumar Gayen & Ors.,** reported in (1997) 5 SCC 76.

5. The learned advocate appearing for the respondents, on the other hand, drawing attention to

the decision of the Apex Court in **Prakash H. Jain v. Marie Fernandes (Ms),** reported in (2003)8 SCC 431 submitted that quasi judicial authorities created under the Statute have to function within the parameters of the powers given to them and in the manner stipulated in such Statute, and considering the same no fault can be found with the impugned orders passed by the authorities below. Drawing attention to the fact of service of summons upon the servant of the petitioner and failure on the part of the petitioner to seek leave to defend the proceedings within 30 days as was otherwise required in terms of the provisions of Section 24 of the said Act, the learned advocate for the respondents submitted that the petitioner could not have been heard in defence by the competent authority without prior leave being obtained. Being so, the competent authority had no option than to reject the application for setting aside the ex parte order, and for the same reason, there is no jurisdictional error on the part of the revisional authority in passing the impugned order.

6. As already seen above, it is undisputed fact that the parties had executed the written agreement dated 3rd April, 2001 permitting the petitioner to occupy and use the suit premises on leave and license

basis. The said agreement was not registered within eight months but it was lodged for registration by the respondents on 31st December, 2002. The petitioner did not appear before the registering authority to admit the execution of the agreement. Undisputedly, a notice dated 13th January, 2003 was served upon the petitioner to vacate the premises latest within a period of three months and the said notice was duly received by the petitioner. Even though the summons in relation to the proceedings under Section 24 of the said Act were served upon the servant who was in occupation of the suit premises on 5th May, 2003, and the intimation regarding the summons through RPAD was given to him by the postman on 8th May, 2003, no steps were taken by the petitioner to seek leave to defend the proceedings by approaching the competent authority within a period of one month from the date of the service of the summons and consequently the order of eviction of the petitioner from the suit premises came to be passed on 15th July, 2003.

7. Section 24 of the said Act entitles the landlord to seek recovery of possession of the premises on the expiry of license period for which the premises were permitted to be occupied by the licensee. Sub-section (1) thereof provides that

notwithstanding anything contained in the said Act, a licensee in possession or occupation of the premises given to him on license for residence shall deliver possession of such premises to the landlord on expiry of period of license, and on failure of the licensee to deliver the possession of the premises, the landlord would be entitled to recover possession of such premises given on license, on the expiry of the period of license by making an application to the competent authority and the competent authority on being satisfied that the period of license has expired, could pass an order for eviction of the licensee. Sub- section (3) provides that the competent authority shall not entertain any claim of whatsoever nature from any other person who is not a licensee according to the agreement of license. Sub-clause (b) of the explanation clause to Section 24 of the said Act provides that the agreement for license in writing shall be conclusive evidence of the facts stated therein.

8. Section 24 of the said Act obviously entitles the landlord to seek eviction of the licensee on expiry of the period of license. The said provision merely relates to the right of the landlord to get back the possession of the premises from the person

whose license to occupy the premises granted to him has come to an end, either on account of expiry of the period of license or termination thereof. The provision of law comprised under Section 24 of the said Act by itself nowhere deals with the manner in which the license was required to be granted nor it prescribes any form or methodology for grant of license by the landlord. The said provision nowhere provides that the license has necessarily to be either in writing or that the agreement in that regard has necessarily to be a registered one. Being so, plain reading of Section 24, therefore, would reveal that moment the license granted to a party to occupy the premises has come to an end, the right of the landlord to get such person evicted from the premises arises and the competent authority thereupon is empowered to pass an order of eviction in case it is satisfied that the period of license has expired. The Section nowhere imposes any embargo over such right of the landlord on account of the agreement of license being not registered or even on account of such agreement being not in writing.

9. The term "License" has not been defined under the said Act. However, the term "Licensee" has been defined under Section 7(5) of the said Act. It

provides that the licensee in respect of any premises or any part thereof to mean a person who is in occupation of the premises or any such part thereof, as the case may be, under a subsisting agreement for licence given for a license fee or charge. It obviously discloses that moment a person enters into an agreement with another to occupy the premises under the control of another for a license fee or charge, it will constitute an agreement for license to occupy such premises. The definition of the term "Licensee" nowhere discloses the requirement of such agreement to be either in writing or that the same needs to be registered. Nonetheless, Section 55 of the said Act speaks of the requirement of registration of such agreement. What would be the effect of the provision regarding requirement of registration on the right of the landlord to seek eviction of the person whose license has come to an end or has been terminated by seeking relief under Section 24 and whether the competent authority is empowered to entertain such grievance from the landlord in the absence of registration of the agreement is the question for consideration.

10. Section 55 of the said Act deals with the subject of requirement of registration of the

agreement executed between the landlord and the licensee. Sub-section (1) thereof provides that notwithstanding anything contained in the said Act, any other law for the time being in force, any agreement for leave and license or letting of any premises, entered into between the landlord and the licensee, after the commencement of the said Act, shall be in writing and shall be registered under the Registration Act, 1908. The said Act received the assent from the President of India on 10th March, 2000 and the Notification regarding enforcement of the said Act was published in the Government Gazette on 10th March, 2000 declaring the enforcement of the said Act from the said date. Sub-section (2) of Section 55 provides that the responsibility of getting such agreement registered shall be upon the landlord and in the absence of the registered written agreement, the contention of the licensee about the terms and conditions subject to which a premises have been given to him by the landlord on leave and license or have been let to him, shall prevail, unless proved otherwise. Sub-section (3) provides that any landlord who contravenes the provisions of the said section shall, on conviction, be punished with imprisonment which may extend to three months or with fine not exceeding Rs.5,000/- or with both.

11. Evidently, any agreement relating to the leave and license entered into between the landlord and the licensee on or after 10th March, 2000 is required to be in writing and further is to be registered under the provisions of law comprised under the Registration Act, 1908. The responsibility to get the agreement registered rests upon the landlord. In case the parties fail to register the agreement, there is a presumption in favour of the contention of the licensee in relation to the terms and conditions of the license, albeit it being a presumption, the same is rebuttable. However, contravention of the provision, i.e. failure on the part of the landlord to get the agreement registered, may invite prosecution which may result in punishment to the landlord in the form of fine of Rs.5,000/- or imprisonment to the extent of a period of three months or both.

12. Plain reading of Section 55(1) would disclose that since enforcement of the said Act, if any premises are allowed to be occupied on leave and license basis, then the agreement in respect of such license has necessarily to be drawn in writing and it should be registered under the Registration Act, 1908.

Sub-section (2) of Section 55 clarifies that it would be the responsibility of the landlord to get such agreement registered. Two consequences are enumerated under sub-sections (2) and (3) of Section 55, in case of failure to comply with the obligation of the landlord to register such agreement. Under sub-section (2), in the absence of registration of such agreement, the contention of the licensee regarding terms and conditions of the license would prevail unless proved otherwise. In other words, the contention regarding the terms and conditions by the licensee will have a presumptive value. Secondly, in terms of sub-section (3) of Section 55 of the said Act, the landlord will warrant penalty of punishment to the extent of three months' imprisonment or fine not exceeding Rs.5,000/- or both. The said Act nowhere provides for any other consequences for failure on the part of the landlord to get the agreement drawn in writing or being registered. In other words, the said Act specifically provides only for two consequences on account of failure on the part of the landlord to get the agreement registered, as is otherwise required to be done under sub-section (2) of Section 55 of the said Act. The said failure on the part of the landlord to get the agreement registered, however, does not result in denying other rights

assured to the landlord under the said Act. Obviously, therefore, the right of the landlord under Section 24 of the said Act to get the person evicted from the premises on expiry of the license is not curtailed in any manner on account of absence of the agreement being in writing or registered.

13. It is also to be noted that the explanation clause (b) to Section 24 of the said Act specifically provides that "an agreement of licence in writing shall be conclusive evidence of the fact stated therein." This is in relation to the evidentiary value of the written agreement of licence. It nowhere prescribes that such an agreement is necessarily to be a registered one. Undoubtedly, the conclusiveness spoken of under the said clause is in relation to the facts stated in the written agreement, irrespective of the fact that the agreement is registered or not.

14. The said clause (b) in the explanation to Section 24 may, at first glance, appears to be contrary to the provisions under Section 55 of the said Act, since sub-section (1) of Section 55 requires an agreement to be in writing, besides its registration being mandatory, and sub-section (2) thereof provides that in the absence of written

registered agreement, the contention of the licensee regarding terms and conditions of the agreement would prevail, unless proved otherwise. It is to be noted that the presumptive value attached to the contention of the licensee in relation to the terms and conditions of the license is for the eventuality of "absence of written registered agreement", whereas, the conclusive evidence spoken of under clause (b) in the explanation to section 24 relates to "facts" stated in the written agreement. Harmonious reading of Section 55(1) and (2) along with the said clause (b) in the explanation to section 24 of the said Act would reveal that though it is mandatory for the landlord to get the agreement of leave and license recorded in writing and registered under the Registration Act, 1908, failure in that regard would warrant consequences as stipulated under Section 55 of the said Act, however, once the matter reaches the stage of evidence, and if there is an agreement in writing, though not registered, even then the facts stated in such agreement could be deemed to be conclusively established on the basis of such written agreement itself and there would be no other evidence admissible in that regard. On the other hand, the provisions of Sections 55(2) and 55(3) of the said Act relate to the consequences of failure on the part of

the landlord to comply with the requirement of registration of the agreement. In other words, though, in terms of sub-section (2) of Section 55 of the said Act, there will be presumptive value to the contentions of the licensee in respect of the terms and conditions of the agreement in the absence of registered written agreement, nevertheless, once the agreement is in writing and even though it is not registered, the same, as regards the facts stated therein, would be deemed to have been proved conclusively on production of the agreement itself, and in which case, any presumption arising in relation to the terms and conditions of the license contrary to the facts stated in such agreement would stand rebutted.

15. The contention of the learned advocate for the petitioner that the absence of registered written agreement would render the license to be invalid and therefore, it would result in the absence of jurisdictional fact to enable the competent authority to entertain the application under Section 24 of the said Act, cannot be accepted. The jurisdictional fact which is required for the competent authority to entertain the application for eviction under Section 24 of the said Act is the expiry of license for

residence in favour of the person occupying the premises and moment the same is disclosed based on whatever material placed before the competent authority, it will empower the competent authority to take cognizance of such application and to proceed to deal with the matter. Absence of registration or even the agreement being not in writing, that would not render the license to be invalid. Undoubtedly, expiry of licence presupposes existence of licence prior to its expiry. However, the existence of licence does not depend upon its record in writing or registration thereof. It depends upon the availability of permission by the landlord to another person to use the landlord’s premises for consideration and moment those factors are established, the person using the premises would be the licencee within the meaning of the said expression under the said Act. Obviously, the written record in relation to the agreement of licence would be the conclusive proof about the terms of licence and in case of registration of such agreement would help the landlord to avoid the consequences stipulated under Section 55(2) and (3) of the said Act. This is apparent from the definition of the term "Licensee" under Section 7(5) of the said Act which nowhere requires the license granted to occupy the premises for license fee or charge to be

necessarily in writing or the agreement to have been registered. If the contention of the learned advocate for the petitioner is accepted, the provisions of sub-section (2) of Section 55 of the said Act as well as the clause (b) to the explanation of Section 24 would be rendered otiose. No provision of law can be interpreted to nullify the effect thereof or to render the provision to be nugatory.

16. Undoubtedly, as submitted by the learned advocate for the petitioner, the Item No.6 of the Concurrent List of the Seventh Schedule of the Constitution of India deals with the subject of transfer of property other than the agricultural lands, registration deeds and documents. Apparently, the subject of registration of the documents falls in the Concurrent List, and the State as well as the Central Government are empowered to enact the statutes in respect of the said subject. However, merely referring to the said item in the concurrent list, it is difficult to accept the contention on behalf of the petitioner that though the Section 17 of the Registration Act, 1908 does not enumerate the agreement for leave and license being one of the documents which is compulsorily required to be registered, by virtue of the provisions comprised

under Section 55(1) of the said Act, the said document would stand included in or appended to the list of documents provided under Section 17 of the Registration Act, 1908. The contention that the provisions regarding compulsory requirement of registration of the leave and license agreement found in Section 55(1) of the said Act will have to be read along with the list of compulsorily registrable documents under Section 17 of the Registration Act, 1908 cannot be accepted. In fact, while providing for the consequences of failure on the part of the landlord to get such agreement registered, the provisions of law in the said Act nowhere exclude unregistered agreement of leave and license to be inadmissible in evidence. On the contrary, the said agreement has been made specifically admissible under clause (b) of the Explanation to Section 24 of the said Act which is not in consonance with the provision of law comprised under Section 49 of the Registration Act, 1908. If it was the intention of the Legislature that the provision regarding the requirement of registration of the leave and license agreement has to be read along with Section 17 of the Registration Act, 1908, nothing would have prevented the Legislature to introduce amendment to Section 17 itself or at least to make such agreement inadmissible in the evidence

rather than specifically providing for admissibility of such document in evidence as being a conclusive proof of the facts stated therein irrespective of the fact that the agreement is not registered. This fact clearly reveals that the provisions comprised under Section 55(1) of the said Act cannot be read with the provisions of Section 17 of the Registration Act, 1908, and for the same reason, the provisions of Section 49 of the Registration Act, 1908 would not be attracted in relation to the agreement for leave and license.

17. It is also argued that the procedure provided under Section 24 are of summary nature. There is no appeal provided against the order to be passed in such proceedings. The orders passed by the competent authority under Section 24 are not appealable in view of the provisions in that regard under Section 44(1). However, they are revisable under sub-section (2) of Section 44 provided that the application in that regard has to be presented within 90 days of the date of order sought to be revised. The jurisdiction of the civil court to deal with such matters is barred under Section 47. Any order passed under Section 24 in favour of the landlord would result in dispossession of the person in occupation of the

premises. Being so, the provisions are to be liberally construed bearing in mind the drastic effect thereof. The contention is devoid of substance. The competent authority created under the said Act to order eviction of the licensee on the expiry of the period of license in terms of Section 24 does not speak of eviction of a person in occupation of the premises otherwise than as the licensee and whose license has expired or terminated. Mere absence of appeal remedy is of no consequences. The appellate remedy is a statutory remedy. There is no inherent right in a litigant to prefer appeal against the order of every Court or quasi-judicial authority of original jurisdiction. Besides, under the guise of interpretation, it does not permit interpolation or addition or substitution of the words in or to or from the statutory provision. If the contention of the petitioner is accepted, one will have to read the expression "written and registered" in Section 24 in relation to the agreement of license, which will virtually amount to violence to the said statutory provision. Besides, the law on the point as laid down by the Apex Court in **Prakash Jain's case (supra)** does not prevent any such interpretation to the provisions of law comprised under the said Act.

18. Undisputedly, the alleged license in favour of the petitioner was granted since 1st April, 2001 i.e. much after the enactment of the said Act. Undisputedly, the agreement in that regard was executed in writing on 3rd April, 2001. In other words, the first requirement of Section 55(1) was duly complied with by the parties. It is also undisputed fact that the agreement was lodged for registration on 31st December, 2002. In terms of Section 23 of Registration Act, a document is required to be presented for registration within four months from the date of its execution and in case of unavoidable circumstances, with the leave of the Registrar, it can be presented within the period of four months immediately after expiry of the initial period of four months. Obviously, a document required to be registered has to be presented for registration maximum within a period of eight months from the date of its execution. If the document is not so presented for registration, obviously, consequences provided under Section 49 of the Registration Act, 1908 would follow. In the case in hand, undisputedly, the agreement was not presented within eight months. The document was executed on 3rd April, 2001. It was presented for registration on 31st December, 2002, nearly after 20 months after its execution. Being so,

the document could not have been registered. However, as already observed above, non-registration of the agreement will not affect the right of the landlord to seek eviction of the licensee on the expiry of the license period nor the delay in presenting the agreement for registration will come in the way of the competent authority in taking cognizance of the application of the landlord on expiry of the license to the person in occupation of the premises of the landlord.

19. Next point relates to irregularity of service of summons. Section 43(2) requires the competent authority to issue summons in the prescribed format as specified in Schedule III. Sub-section (3)(a) of Section 43 provides that the competent authority shall, in addition to, and simultaneously with the issue of summons for service on the licensee also direct the summons to be served by registered post, acknowledgment due, addressed to the licensee or agent empowered by such licensee to accept the service at the place where the licensee or such agent actually and voluntarily resides or carries on business or personally works for gain. Sub-section (3)(b) of Section 43 provides that when an acknowledgment purporting to be signed by the licensee or their agent

received by the competent authority or the registered article containing the summons is received back with an endorsement purporting to have been made by a postal employee to the effect that the licensee or his agent had refused to take delivery of the registered article, the competent authority may proceed to hear and decide the application as if there has been a valid service of summons.

20. Clause (a) of Sub-section (4) of Section 43 of the said Act provides that the licensee on whom the summons is duly served in the ordinary way or by registered post in the manner laid down in sub-section (3) of section 43, shall not contest the prayer for eviction from the premises, unless, within 30 days of the service of summons on him as aforesaid, he files an affidavit stating grounds on which he seeks to contest the application for evidence and obtains leave from the competent authority in the manner provided in the said Act, and in default of his appearance in pursuance of the summons or his obtaining such leave, the statement made by the landlord in the application for eviction shall be deemed to be admitted by the licensee, and the applicant shall be entitled to an order for eviction on the ground aforesaid. The Apex Court in **Prakash Jain's case (supra)** has clearly ruled

that :-

> "Clause (a) of Sub-section (4) of Section 43 mandates that the tenant or licensee on whom the summons is duly served should contest the prayer for eviction by filing, within thirty days of service of summons on him, an affidavit stating the grounds on which he seeks to contest the application for eviction and obtain the leave of the competent authority to contest the application for eviction as provided therefor. The legislature further proceeds to also provide statutorily the consequences as well laying down that in default of his appearance pursuant to the summons or obtaining such leave, by filing an application for the purpose within the stipulated period, the statement made by the landlord in the application for eviction shall be deemed to be admitted by the tenant or licensee, as the case may be, and the applicant shall be entitled to an order for eviction on the ground so stated by him in his application for eviction."

21. Certainly it is not the case of the petitioner that the servant who had accepted the summons had no authority to accept the summons on behalf of the petitioner. Besides, it is a matter of record that the notice was sent at the correct address by registered post. There was therefore a presumption available under Section 27 of the General Clauses Act, 1897 about due service of summons. In **David K.N. v. S.R.Chaubey (Chaturvedi),** reported in 2003(4) Bom. CR 612, after taking note of various decisions, it was clearly held that "where the provision of law speaks only of sending of letter by registered post or tendering or delivering the notice personally to the party, one will have to conclude that the moment a letter is sent by registered post disclosing correct address of the addressee, on return of such letter to the sender, apparently disclosing postal notings of refusal or unclaimed by the addressee, presumption under section 28 of the Bombay General Clauses Act would inevitably arise in relation to the service of such notice upon the addressee." Undisputedly, the postal remark disclosed the intimation of the letter and failure to claim the same. Being so, no fault can be found with the order passed by the competent authority. Even otherwise, once the license had expired, there is hardly any case for the petitioner

to contend that the competent authority had no jurisdiction to entertain the application.

22. Once the factum of expiry of license is established, the competent authority, being satisfied about the same, is left with no alternate than to order the eviction of the person whose licence to occupy the premises has come to an end, and the same is clear from the ruling of the Apex Court in **Prakash Jain's Case (supra)** wherein in view of Section 43(4)(a) of the Act, it was held that "the net result of an application/affidavit with grounds of defence and leave to contest not having been filed within the time as has been stipulated in the statute itself as a condition precedent for the competent authority to proceed further to enquire into the merits of the defence, the competent authority is obliged, under the constraining influence of the compulsion statutorily cast upon it, to pass orders of eviction in the manner envisaged in clause (a) of sub-section (4) of Section 43 of the Act."

23. The decision of Division Bench of Punjab High Court in **Ram Singh Sant Ram case (supra),** was regarding the time factor within which a document can be registered under the Registration Act. The Patna

High Court in **Smt.Dil Kuer & Ors. v. Hari Chandar Prasad & Ors.,** reported in AIR 1976 Patna 193, referring to Section 3 of Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, held that the said provision of law would prevail over other laws notwithstanding anything to the contrary contained therein. It was held that "according to Article 254(2) of the Constitution of India, the law made by the State legislature making Wills compulsorily registrable, although the same are exempted under the Registration Act, must prevail over the Central Act, inasmuch as the subject "Registration" falls under the concurrent list and the Ceiling Act has received the assent of the President of India." Undoubtedly, the said Act obtained the consent of the President of India on 31st March, 2000 and the notification in that regard was published in the Government Gazette on the same day. The decision in **Hari Chandar Prasad's case (supra)** therefore rather than assisting the petitioner justifies the rejection of argument sought to be canvassed on behalf of the petitioner since the provisions Section 24-Explanation (b) of the said Act would prevail over the provisions of Section 49 of the Registration Act, 1908 and though under Section 49, the un-registered agreement of leave and license would not be admissible

in evidence, yet the same would not only be admissible in evidence vide Section 24-Explanation (b) of the said Act, but would be conclusive evidence of the facts stated therein.

24. It is not necessary to refer to the decision of the Supreme Court in **Achutananda Baidya's case (supra)**. The said case is on the well settled law relating to the scope of powers of the High Court in the proceedings under Article 227 of the Constitution of India. It has been held that it is open to the High Court in exercise of the powers under Article 227 to interfere with the finding of fact if the subordinate court comes to a conclusion without any evidence or upon manifest misreading of the evidence thereby indulging in improper exercise of jurisdiction or if its conclusions are perverse.

25. The fall-out of the above discussion is that there is no substance in the challenge by the petitioner to the impugned orders and the petition is devoid of substance and therefore fails and is dismissed. Rule is discharged with no order as to costs.